

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

DAVID T. MILLER,

Plaintiff,

v.

CASE NO. 3:20-cv-1263-J-20JBT

RUBY TUESDAY,

Defendant.

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REPORT AND RECOMMENDATION¹

THIS CAUSE is before the Court on *pro se* Plaintiff's Motion to Proceed *In Forma Pauperis* ("Motion") (Doc. 2). For the reasons stated herein, the undersigned respectfully **RECOMMENDS** that the Motion be **DENIED** and the case be **DISMISSED without prejudice**.

The Court previously took the Motion under advisement and informed Plaintiff that he had not provided enough information for the Court to determine whether he is without sufficient financial resources to prosecute this case. (Doc. 9.) The Court directed Plaintiff to complete and file the Affidavit of Indigency

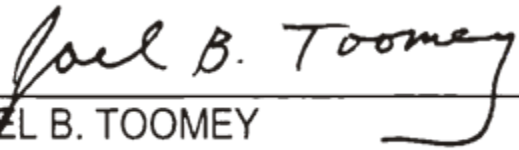
¹ "Within 14 days after being served with a copy of [this Report and Recommendation], a party may serve and file specific written objections to the proposed findings and recommendations." Fed. R. Civ. P. 72(b)(2). "A party may respond to another party's objections within 14 days after being served with a copy." *Id.* A party's failure to serve and file specific objections to the proposed findings and recommendations alters the scope of review by the District Judge and the United States Court of Appeals for the Eleventh Circuit, including waiver of the right to challenge anything to which no specific objection was made. See Fed. R. Civ. P. 72(b)(3); 28 U.S.C. § 636(b)(1)(B); 11th Cir. R. 3-1; Local Rule 6.02.

attached to that Order on or before December 28, 2020. (*Id.* at 2.) Plaintiff was cautioned that if he “fails to do so, the undersigned will likely recommend that the District Judge deny the Motion and dismiss this action.”² (*Id.* at 2–3.) To date, Plaintiff has not filed the Affidavit of Indigency or taken any other action in this case. Therefore, the undersigned recommends that this case be dismissed without prejudice for failure to prosecute.

Accordingly, it is respectfully **RECOMMENDED** that:

1. The Motion (**Doc. 2**) be **DENIED**.
2. The case be **DISMISSED without prejudice**.
3. The Clerk of Court be directed to terminate any pending motions and close the file.

DONE AND ENTERED in Jacksonville, Florida, on January 12, 2021.


JOEL B. TOOMEY
United States Magistrate Judge

Copies to:

The Honorable Harvey E. Schlesinger
Senior United States District Judge

Pro Se Plaintiff

² Plaintiff was further cautioned that “[e]ven a dismissal without prejudice may impact [his] substantive rights by, for example, expiration of the right-to-sue period or application of a statute of limitations.” (Doc. 9 at 2 n.2.)